



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 04827-99
30 March 2000

CTASN [REDACTED] USN
[REDACTED]
[REDACTED]
[REDACTED]

Dear Seaman [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested modification of your Evaluation Report and Counseling Record for 14 January 1995 to 15 January 1996 by raising the mark in block 36 ("Military Bearing/Character") from "1.0" (lowest) to "2.0" (second lowest), removing "Received pregnancy notification on 9 Jan 96" from the block 43 narrative, changing block 45 ("Promotion Recommendation") from "Progressing" to "Promotable" and changing block 46 accordingly; advancement to CTA3 (pay grade E-4) from the September 1995 advancement examination; and removal of the service record page 13 ("Administrative Remarks") entry dated 13 May 1996 withdrawing your recommendation for advancement to CTA3. Your request for advancement was previously considered and denied on 1 September 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, the Board's file on your previous case (docket number 1969-98), your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 10 and 21 January 2000, copies of which are attached, and your letter dated 29 February 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions, except they did not agree with the recommendations in the advisory opinion dated 10 January 2000 to amend the contested performance evaluation. As a remedial body, the Board would not make the proposed change to block 20, nor would they

make the proposed change to the block 43 narrative reflecting the proposed revised entry in block 20, as these modifications would be to your detriment. They found the comment on pregnancy was necessary to explain the medical waivers reflected in block 20. While they would not make the proposed change to the promotion recommendation for the reason stated above, the page 13 entry signed on the same date as the evaluation convinces the Board you would have been marked "Significant Problems," had the reporting senior known "Progressing" could not properly be marked. The Board did not condone the late submission of the evaluation, but they did not find this invalidated it. They found the failure to mark you "Significant Problems" in the evaluation did not invalidate the withdrawal of your recommendation for advancement. Finally, the Board found no authority establishing that your having failed to meet Navy physical readiness standards one time was an impermissible basis for assigning the "1.0" mark in block 36 of your evaluation or withdrawing your recommendation for advancement. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



4827-99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
10 JAN 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: CTASN ~~REDACTED~~ NMN ~~REDACTED~~ USN, ~~REDACTED~~

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests modification of her performance report for the period 14 January 1995 to 15 January 1996:

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the member was an E-3 at the time of the report. Since E-4 and below reports are not filed in the headquarters record, our comments are based on an uncertified copy of the report included with the member's petition.

b. Review of the report itself revealed the member's signature with the member indicating her desire to submit a statement. The member does not provide a copy of the statement; therefore, we can not determine if a statement was submitted.

3. A further review of the report in question revealed the following discrepancies:

a. Block 20, "Physical Readiness", should read "P/NS" vice "M/MW". Reference (a), Annex A, page A-4 states "Use the PRT score from the most recent official PRT". The OPNAV form 6110/2 provided with the member's petition revealed that the most recent official PRT was conducted October 1995, which indicated the member was a PRT failure due to body fat.

b. Block 43, "Comments", should be modified to read
"*20(Physical Readiness), *36(Military Bearing/Character) Does not meet Navy Physical Readiness standards due to measurement

c. Blocks 45 and 46, "Promotion Recommendation" should read "Significant Problems" vice "Progressing". Per Reference (a), Annex A, page A-12, a promotion recommendation of "Progressing" is not allowed if an advancement recommendation is in effect in current grade. We feel that since the reporting senior was withdrawing the member's recommendation for advancement the promotion recommendation should be changed to read "Significant Problems".

4. The promotion recommendation represents the reporting senior's appraisal of the member's readiness for the duties and responsibilities of the next higher pay grade. It is made at the discretion of the reporting senior, and is not routinely open challenge.

5. We recommend no further relief be granted other than that as indicated above.

Head, Performance
Evaluation Branch



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4827-99

1430
Ser 852/0116
21 Jan 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
CTAS [REDACTED], US [REDACTED]

Ref: (a) BUPERSINST 1430.16D
(b) OPNAVINST 3120.32C

Encl: (1) Docket #04827-99

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval.

2. As stated in reference (a), a commanding officer may withdraw an advancement recommendation at any time a member is determined to no longer be qualified for advancement to the next higher paygrade. The withdrawal of an advancement recommendation is the prerogative of the commanding officer. CTAS [REDACTED]'s advancement recommendation withdrawal was accomplished in accordance with reference (a) and remains in effect.

3. In the absence of the commanding officer, the executive officer can act in the capacity of the commanding officer according to reference (b).

[REDACTED]
By direction